



The Burden of Proof

ESCOBAR & ASSOCIATES, P.A.

ATTORNEYS AT LAW

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CRIMINAL DEFENSE TEAM



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Volume 1, Issue 10

YOUR PURSUIT OF JUSTICE STARTS HERE.

Escobar Challenges Law Enforcement Method of Weighing Marijuana in Trafficking Grow Operations

Certain law enforcement detectives, for the past few years have processed the marijuana seized from a grow case in the most unusual way. Law enforcement has seized and removed the plant from their containers and thereafter watered the root ball of the plant in an effort to remove dirt and growing medium from the roots prior to weighing the plants. **Attorney Richard Escobar** has argued that the actions of law enforcement is tantamount to tampering with the weight of the evidence. Since plants absorb water from their root system and 70% of the weight of a marijuana plant is water weight, watering the root ball increases the weight of the plant thereby making it impossible to determine the actual weight of the plant at the time of its seizure. In the past two years **Attorney Richard Escobar** has been successful in reducing marijuana grow charges to non Trafficking amounts because of this flawed process and even convincing the prosecution to allow our client into a diversion program (PTI). The local law enforcement detectives have since abandoned this watering practice due to **Attorney Escobar's** argument. However, a few older cases will be set for motions later next month where a forensic botanist will testify concerning the improper procedure.

Recent Developments in Criminal Law

U.S. Supreme Court Rules Police Cannot Prolong a Vehicle Stop to Conduct a Dog Sniff

In **Rodriguez v. U.S.**, the U.S. Supreme Court held that once the primary mission of a vehicle stop has ended, any continued detention of the vehicle and the driver without reasonable suspicion violates the Fourth Amendment. The long-standing rule in America is that the police can effectuate a vehicle stop if they have either probable cause that a traffic law was violated or reasonable suspicion of, for example, impaired driving. Police officers in Rodriguez, however, prolonged a traffic stop after a ticket was written for the purpose of conducting a dog sniff of the defendant's vehicle. The U.S. Supreme Court held that the continued detention of Rodriguez constituted an unreasonable seizure in violation of the Fourth Amendment, and any evidence obtained was to be suppressed.

Fl. Supreme Court Rules Sentencing Courts Cannot Consider Subsequent Arrests Without Conviction

In **Norvil v. State**, the defendant committed a crime, entered a plea of guilty, and prepared himself for what he believed would be a fair sentencing hearing. The State, however, wanted the sentencing court to consider a new arrest that occurred after the commission of the primary offense. The problem was that although Norvil accepted responsibility for the primary offense — he admitted guilt — he insisted he was innocent of the alleged crime underlying the subsequent arrest. The sentencing court referenced the new arrest and imposed a harsh sentence of 12 years in prison. The Florida Supreme Court held that the sentencing court erred, and in so ruling, established a bright line rule: a trial court may not consider a subsequent arrest without conviction during sentencing for the primary offense.

The material in this newsletter represents general legal information. Because the law is continually changing, some provisions in this newsletter may be inapplicable. It is always best to consult an attorney about your legal rights and responsibilities regarding the specifics of your case.

Criminal Defense Team in the Trenches



The prosecution has long used the team approach to evaluate and prosecute cases. Most State Attorneys, as well as Federal Prosecutors in the State of Florida, have a team of prosecutors in each criminal court division helping each other prosecute cases.

At Escobar & Associates, we have long recognized the importance of meeting that force with its own team of criminal defense attorneys. We employ a Criminal Defense "Team" approach to the successful defense of all of the firm's cases.

Escobar & Associates not only uses the team approach, but also focuses on the individual specialty and skill of each attorney to increase our chances of a successful defense.

The Criminal Defense Team meets daily to discuss strategies and theories of defense on each case. When a case is set for trial, all the lawyers and paralegals work together to make sure the case is fully prepared for a successful defense. **Choose the proven team of criminal defense attorneys at the law firm of Escobar and Associates to seek Justice for you!** The following are some examples of the success of our team approach:

Justice Served

Attorney Richard Escobar Secures Drug Diversion for Two Major Marijuana Grow Operations

Attorney Richard Escobar represented different clients involved in two different major marijuana grow operations in two different counties of Florida. The diversion program ordinarily does not permit marijuana grow operations into the program because these cases usually involve drug dealing. **Attorney Richard Escobar** argued in both cases that the clients were merely entrepreneurs developing high quality cannabis for future operations once medical marijuana was legalized in Florida. One of the cases resulted in an extensive pretrial hearing where law enforcement had to admit that they found no evidence of sale or distribution of the cannabis itself. The charges were dismissed and the clients will be allowed to expunge their criminal records once the Drug Diversion program is completed. State v J.C.B.

Attorney Escobar Wins Attempted 1st degree Murder Charges Against Two Law Enforcement Officers

Attorney Richard Escobar represented a client who had been accused of domestic violence by his girlfriend. This accusation resulted in law enforcement storming the client's property and demanding his exit. The client refused to leave his property and used his AK-47 to fire upon the officers unoccupied police vehicle. Approximately 32 bullets struck the officers vehicle causing significant damage. Both officers claimed that our client was shooting at them. **Attorney Richard Escobar**, through his extensive investigation which included many hours of depositions and interviews, was able to prove that the officers were no where near the vehicle at the time of the shooting, but instead, were behind a tree. The client was allowed to plea to two counts of aggravated assault on law enforcement and was sentenced to probation. State v A.H.

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Attorney Dino Michaels Gets DUI Case Dropped on the Day of Trial

Our client was stopped for erratic driving and performed poorly on a field sobriety exercise. In the car police found some prescription drugs. Although she did have alcohol in her system she also refused to give a urine sample. **Attorney Dino Michaels** went to the area of the stop and took photos of the poor conditions of the road. He also went with the client to the scene of the field sobriety exercises and documented with photos and a video that the roadway was not level and full of debris. Initially the state refused to consider a reduction to Reckless Driving. On the morning of Trial, faced with the evidence of our investigation, the state dropped the case. State of Florida v A.H.

Attorney Richard Escobar Wins Homicide Case

Attorney Richard Escobar represented a client in a self defense homicide case of a client who was a Mexican immigrant. Our client had been violently attacked by an acquaintance who ended up slashing his throat. Friends of the client came to the client’s rescue and ended up beating the victim to death. These friends left the scene and then disclaimed their involvement. **Attorney Escobar** was able to prove forensically by blood evidence that our client could not have struck the fatal blows to the victim and that the fatal blows were in fact the actions of others. The prosecution dropped all charges weeks prior to trial. The client is currently applying for citizenship. State of Florida v J.C.

Attorney Dino Michaels’s Investigation Causes State to Drop Trafficking in Marijuana Charges

Attorney Dino Michaels represented a client charged in a major marijuana trafficking case in Hernando County. Police entered our client’s home with a search warrant. In the house police found our client and hundreds of plants broken into pieces and covered with dirt on the floor. During depositions, **Attorney Dino Michaels** discovered that police did not properly document their investigation and that they could not prove any connection of our client to the house other than his being there. The state offered our client eight years in prison. Three days before the trial was scheduled to begin, the state dropped the charges. State of Florida v. D.M.

Attorney DeeAnn Athan Wins a Not Guilty Verdict in Rape Trial

DNA results indicated that client’s sperm was found on his 13 year old daughter’s bed sheet. The teenager had accused our client of raping her many times since she was 11 years old. The prosecutor was confident that he could convict the client and made him a plea offer of 15 years in state prison followed by Sex Offender Probation. Our client turned down the offer. Our client went to jury trial with **Attorney DeeAnn Athan** who attacked the accuser’s credibility through vigorous and relentless cross examination, thereby demonstrating the inconsistencies of her testimony. Before the trial began **Attorney DeeAnn Athan** also tirelessly pursued a witness who was reluctant to testify in court. When the witness did not appear in court as required by her subpoena, **Attorney Athan** asked the judge to have the witness taken into custody and brought to court. The witness proved to be valuable to the defense. The jury did not believe the child accuser, and found our client and his witness credible in returning a “not guilty” verdict after a short deliberation. State of Florida v. P.A.

Attorney Dino Michaels Wins Grand Theft Trial

Our client was accused by a former secretary in the State Attorney’s Office of taking appliances from a house she bought from our client. The accuser was married to a St. Petersburg Police Detective. During aggressive cross-examination by **Attorney Dino Michaels** the accuser admitted to contacting our client and threatening to use her influence with authorities if the appliances were not returned to her. Aside from the accuser’s bare allegations, the State had no substantive evidence. The Pinellas County Jury found our client not guilty. State of Florida v. L.F.

Attorney DeeAnn Athan wins Not Guilty Verdict by Jury Trial and Violation of Probation

Our client purchased two motor homes at an auction, however, only one was delivered to him. Our client went to the location where the motor home was kept in an effort to take pictures. An employee of the property owner confronted our client and alleged that the client tried to run him over with his vehicle. At the jury trial **Attorney DeeAnn Athan** proved that the employee’s version of the incident could not be true. The jury exonerated our client by returning a “not guilty” verdict. The new charge was used to allege a violation of our client’s existing probation. After a hearing on the violation of probation, the judge dismissed the Affidavit of Probation as well. State of Florida v J.M.

Attorney Rupak Shah Gets Conviction Overturned

On appeal, **Attorney Rupak Shah** successfully argued that law enforcement officers violated our client’s Fourth Amendment rights. Police officers had submitted a search warrant application which included information they obtained by unlawfully intruding onto our client’s lawn and peering through the windows of our client’s home. **Attorney Shah** argued that the police lacked just cause to do so, and that the evidence obtained in the case should be suppressed. The Second District Court of Appeals agreed, and overturned our client’s conviction and his lengthy prison sentence. Z.D. v. Florida.



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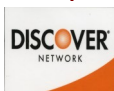
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The law office of Escobar & Associates P.A. was founded in 1986, with a commitment to provide clients professionalism, integrity, and result-oriented services. Our firm practices in the areas of criminal defense, family law, personal injury, and wrongful death. Our attorneys provide aggressive representation and have a combined 90 years of legal experience.

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